

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

April 13, 2000

DUKE ENERGY TRADING AND  
MARKETING, L.L.C.  
Application for License to Operate as a  
Competitive Electricity Provider

Docket No. 2000-250

**ORDER AMENDING LICENSE**

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

---

**I. SUMMARY**

In this Order, we amend the license of Duke Energy Trading and Marketing, L.L.C. to operate as a competitive electricity provider in Maine pursuant to Chapter 305 of the Commission's Rules to reflect a recent statutory change.

**II. CURRENT LICENSE**

On April 4, 2000 in this proceeding, the Commission issued a license to Duke Energy Trading and Marketing, L.L.C. (DETM) to operate in Maine as a competitive electricity provider, as provided in Chapter 305. That license limited the authority of DETM to offer retail service only to customers with a demand greater than 100 kilowatts in Maine, and required DETM to provide certain consumer protections pursuant to section 4 of Chapter 305.

**III. STATUTORY CHANGE FOR CONSUMER PROTECTIONS**

On April 10, 2000, Governor King signed into effect P.L. 1999, ch. 657, An Act Relating to Electric Industry Restructuring. That Act became effective on that date. One provision of that Act requires the Commission to amend the threshold for consumer protections established under section 4 of Chapter 305, and directs that those protections "apply to residential and small commercial consumers as defined in Title 35-A, section 3203, subsection 4," amended by that Act. That new section defines, for purposes of subsection 4, "residential consumer" as:

*a consumer defined as residential under the terms and conditions of the consumer's transmission and distribution utility.*

That section further defines, for the purposes of subsection 4, "small commercial consumer" as:

*in the case of a consumer served by an investor-owned transmission and distribution utility, a nonresidential consumer that meets the availability criteria to take service under a core customer class of the transmission and distribution utility that does not pay a demand charge to the transmission and distribution utility, or*  
*in the case of a consumer served by a consumer-owned transmission and distribution utility, a nonresidential consumer with a demand of 20 kilowatts or less.*

The Act further enacts 35-A M.R.S.A. § 3203(4-A) to establish general consumer protections to be followed by all competitive electricity providers in Maine as a condition of their licensing. We on our own motion amend the license we granted to DETM to reflect these changes. As a condition of the amended license granted by this Order, DETM shall comply with those requirements as reflected in that section of the new statute, attached to this Order.

#### **IV. FINANCIAL SECURITY**

Chapter 305 § 2(B)(1)(a)(i) requires a security instrument from competitive electricity providers that offer service to customers with a demand less than 100 kilowatts, and thus we did not require DETM to provide a financial security instrument in our earlier Order Granting License. When we adopted Chapter 305, we applied the financial security requirement “only to those providers who market the sale of electricity to consumers who are protected by the consumer protection rules; that is, customers with a demand of 100 kW or less.”<sup>1</sup> In light of our intent to link the financial security requirement with the applicability of consumer protection rules, and the statutory change in the application of consumer protections described in Part III of this Order above, we believe it is appropriate on our own motion to amend the license we granted to DETM. We thus allow DETM to serve consumers with a demand under 100 kilowatts who are not residential or small commercial consumers, without a financial security instrument.

#### **V. ORDERING PARAGRAPHS**

Accordingly, we

---

<sup>1</sup> *Public Utilities Commission, Licensing Requirements, Enforcement and Consumer Protections Provisions for Competitive Electric Providers (Chapter 305)*, Docket No. 98-608, Order Adopting Rule and Statement of Factual and Policy Basis at 6 (Feb. 2, 1999).

1. amend the license we granted to Duke Energy Trading and Marketing, L.L.C. on April 4, 2000 to operate as a competitive electricity provider to authorize Duke Energy Trading and Marketing, L.L.C. to offer retail service to all consumers in Maine other than residential consumers and small commercial consumers as defined in 35-A M.R.S.A. § 3203(4) and stated in Section III of this Order without providing a financial security instrument;
2. order Duke Energy Trading and Marketing, L.L.C. to comply with the general consumer protections contained in the revised 35-A M.R.S.A. § 3203(4-A) attached to this Order;
3. order Duke Energy Trading and Marketing, L.L.C. to comply with all other requirements set forth in the license granted by the Commission on April 4, 2000; and
4. order that the amended license is effective on the date of this Order and valid until revoked by the Commission pursuant to section 3(A)(4) of Chapter 305, or abandoned by the licensee pursuant to sections 2(C)(9) and 2(C)(11) of Chapter 305 of the Commission's Rules.

Dated at Augusta, Maine, this 13th day of April, 2000.

BY ORDER OF THE COMMISSION

---

Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond